THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.3664 OF 2007

Date:22-03-2007

Between:

M/s Glencore Gran BV …Petitioner

And

The Commissioner of Customs
And others …Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.3664 OF 2007

O R D E R ***(Per the Hon'ble Sri Justice Bilal Nazki):***

Heard learned counsel for the parties and with their consent the writ petition is being disposed of at this stage.

Counter has been filed.

We have noted the facts leading to filing of this writ petition in our order dated 08-03-2007. Briefly, the grievance of the petitioner was that they were suppliers of wheat to the Food Corporation of India-the sixth respondent and wheat was imported within the territory of India and it had reached Visakapatnam. Customs authorities had got the sample of wheat tested from Central Food Laboratory, Calcutta, which had opined that the wheat that was being imported did not have the constituents as per the Rules framed under the Prevention of Food Adulteration Act, 1954 (for short "the Act"). This test of the Central Food Laboratory of Calcutta was being challenged by the petitioner on the ground that the sample was not taken in the manner in which it had to be taken. Therefore, by our order dated 08-03-2007, we directed two further samples to be taken. One sample be sent to the Central Food Laboratory at Pune and another sample to the Central Food Laboratory at Mysore. Consequentially, these samples were taken in accordance with the norms fixed under the Act and in accordance with the norms accepted internationally and the samples

were tested at the Laboratories at Pune and Mysore. Both reports have come. Both reports contradict the report of the Central Food Laboratory, Calcutta and are of the opinion that the samples are in conformity with the standards laid down under the Rules framed under the Act.

In these circumstances, we feel that the Customs authorities should now clear the wheat for import. However, this shall be done on an undertaking furnished by the Exporter that should the final users of the wheat i.e., the Food Corporation of India-the sixth respondent or the State Trading Corporation of India Limited-the fifth respondent find the wheat not in conformity with the standards laid down by the Act or find the wheat in any way not fit for human consumption, they shall be at liberty to take any measures that may be available to them in law. This order shall not be an impunity to the Exporter as against the claims of the Food Corporation of India/State Trading Corporation of India Limited, because this order has only been passed to enable the Exporter to take away the goods from the high sea.

The writ petition is accordingly disposed of. No order as to costs

(Bilal Nazki,J)

Dated 22nd March, 2007

(Nooty Ramamohana Rao,J)

Note: Issue operative portion by
Wire at party's cost.
(b/o)
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